

FILED IN OPEN COURT
U.S.D.C. - Atlanta

MAR 05 2020

GUILTY PLEA and PLEA AGREEMENTUnited States Attorney
Northern District of Georgia

By:

JAMES N. HATTEN, Clerk
Deputy Clerk

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION
CRIMINAL NO. 2:20-CR-007-SCJ

The United States Attorney for the Northern District of Georgia ("the Government") and Defendant Edward "Eddie" Okenica enter into this plea agreement as set forth below in Part IV pursuant to Rules 11(c)(1)(A) & (B) of the Federal Rules of Criminal Procedure. Edward "Eddie" Okenica, Defendant, having received a copy of the above-numbered Information and having been arraigned, hereby pleads GUILTY to Counts 1 through 11.

I. ADMISSION OF GUILT

1. The Defendant admits that he is pleading guilty because he is in fact guilty of the crimes charged in Counts 1 through 11.

II. ACKNOWLEDGMENT & WAIVER OF RIGHTS

2. The Defendant understands that by pleading guilty, he is giving up the right to plead not guilty and the right to be tried by a jury. At a trial, the Defendant would have the right to an attorney, and if the Defendant could not afford an attorney, the Court would appoint one to represent the Defendant at trial and at every stage of the proceedings. During the trial, the Defendant would be presumed innocent and the Government would have the burden of proving him guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the witnesses against him. If the Defendant wished,

he could testify on his own behalf and present evidence in his defense, and he could subpoena witnesses to testify on his behalf. If, however, the Defendant did not wish to testify, that fact could not be used against him, and the Government could not compel him to incriminate himself. If the Defendant were found guilty after a trial, he would have the right to appeal the conviction.

3. The Defendant understands that by pleading guilty, he is giving up all of these rights and there will not be a trial of any kind.

4. By pleading guilty, the Defendant also gives up any and all rights to pursue any affirmative defenses, Fourth Amendment or Fifth Amendment claims, and other pretrial motions that have been filed or could have been filed.

5. The Defendant also understands that he ordinarily would have the right to appeal his sentence and, under some circumstances, to attack the conviction and sentence in post-conviction proceedings. By entering this Plea Agreement, the Defendant may be waiving some or all of those rights to appeal and to collaterally attack his conviction and sentence, as specified below.

6. Finally, the Defendant understands that, to plead guilty, he may have to answer, under oath, questions posed to him by the Court concerning the rights that he is giving up and the facts of this case, and the Defendant's answers, if untruthful, may later be used against him in a prosecution for perjury or false statements.

III. ACKNOWLEDGMENT OF PENALTIES

7. The Defendant understands that, based on his plea of guilty, he will be subject to the following maximum and mandatory minimum penalties:

As to each of Counts 1 through 11, alleging a violation of 18 U.S.C. § 2251(a) & (e)

- a. Maximum term of imprisonment: 30 years.
- b. Mandatory minimum term of imprisonment: 15 years.
- c. Term of supervised release: 5 years to Life.
- d. Maximum fine: \$250,000.00, due and payable immediately.
- e. Full restitution, due and payable immediately, to all victims of the offenses and relevant conduct.
- f. Mandatory special assessment: \$100.00, due and payable immediately.
- g. Mandatory special assessment: \$5,000.00, due and payable immediately, unless the court determines that the Defendant is indigent.
- h. Forfeiture of any and all proceeds from the commission of the offense, any and all property used or intended to be used to facilitate the offense, and any property involved in the offense.

8. The Defendant understands that, before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines and that, under certain circumstances, the Court has the discretion to depart from those Guidelines. The Defendant further understands that the Court may impose a sentence up to and including the statutory maximum as set forth in the above paragraph and that no one can predict his exact sentence at this time.

9. The Defendant understands that, by pleading guilty, he will be required to register as a sex offender in accordance with the relevant statutes of the State of Georgia, including OCGA § 42-1-12, and the federal provisions, including 34 U.S.C. § 20913. He shall register with the state offender registration agency in any state where he resides, is employed, works, or is a student and upon his release from prison as a condition of supervised release pursuant to 18 U.S.C. § 3583(d). He shall initially register with the state sex offender registration agency in the State of Georgia, and shall also register with the state sex offender registration agency in any state where he resides, is employed, works, or is a student, as directed by the Probation Officer. The Defendant shall comply with all requirements of federal and state sex offender registration laws, including the requirement to register and update his registration information under 34 U.S.C. § 20913 and OCGA § 42-1-12(f). The Defendant shall provide proof of registration to the Probation Officer within 72 hours of his sentencing if he is not sentenced to a term of imprisonment, or, if he is sentenced to a term of imprisonment, within 72 hours of his release. The Defendant also understands that, independent of supervised release, he will be subject to federal and state sex offender registration requirements, and that those requirements may apply throughout his life. The Defendant understands that he will be subject to possible federal and state penalties for failure to comply with any such sex offender registration requirements. The Defendant further understands that, under 18 U.S.C. § 4042(c), notice will be provided to certain law enforcement agencies upon his release from confinement following conviction.

10. REMOVAL FROM THE UNITED STATES: The Defendant recognizes that pleading guilty may have consequences with respect to his immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense to which the Defendant is pleading guilty. Indeed, because the Defendant is pleading guilty to this offense, removal is presumptively mandatory. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including his attorney or the District Court, can predict to a certainty the effect of his conviction on his immigration status. The Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his plea may entail, even if the consequence is his automatic removal from the United States.

IV. PLEA AGREEMENT

11. The Defendant, his counsel, and the Government, subject to approval by the Court, have agreed upon a negotiated plea in this case, the terms of which are as follows:

No Additional Charges

12. The United States Attorney for the Northern District of Georgia agrees not to bring further criminal charges against the Defendant related to the charges to which he is pleading guilty. The Defendant understands that this provision does not bar prosecution by any other federal, state, or local jurisdiction.

Sentencing Guidelines Recommendations

13. Based upon the evidence currently known to the Government, the Government agrees to make the following recommendations and/or to enter into the following stipulations.

Base/Adjusted Offense Level

14. The Government agrees to recommend and the Defendant agrees that:

- a. The Base Offense Level is 32 for each of Counts 1 through 11 under U.S.S.G. § 2G2.1(a).
- b. The Defendant receive the 2-level upward adjustment for each of Counts 1 through 3 and 5 through 11 under U.S.S.G. § 2G2.1(b)(1)(B) because the offense involved a minor who had attained the age of twelve years but not the age of sixteen years.
- c. The Defendant receive the 2-level upward adjustment for each of Counts 1 through 11 under U.S.S.G. § 2G2.1(b)(6)(B) because for the purpose of producing sexually explicit material the offense involved the use of a computer or an interactive computer service to persuade, induce, entice, coerce, or facilitate or otherwise solicit participation in such conduct.
- d. Additional enhancements under U.S.S.G. § 2G2.1 will apply, including but not limited to enhancements under § 2G2.1(b)(2)(A), § 2G2.1(b)(3), and § 2G2.1(b)(4)(A), but each enhancement will not necessarily apply to each Count.

Multiple Counts Grouping Adjustment

15. The Defendant understands that the Government will recommend that under U.S.S.G. §§ 2G2.1(d)(1) and 3D1.2, each count of conviction for 18 U.S.C. § 2251(a) will not group, and the Defendant will receive a 5-level upward adjustment pursuant to U.S.S.G. § 3D1.4 because there are at least “5 units” as calculated under § 3D1.4.

Chapter 4 Adjustment

16. The Defendant understands that the Government will recommend that under U.S.S.G. § 4B1.5(b)(1) his offense level as determined under Chapters 2 and 3 of the United States Sentencing Guidelines shall be increased 5 levels because the Defendant engaged in a pattern of activity involving prohibited sexual conduct.

Acceptance of Responsibility

17. The Government will recommend that the Defendant receive an offense level adjustment for acceptance of responsibility, pursuant to Section 3E1.1, to the maximum extent authorized by the guideline. However, the Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the Defendant engages in conduct inconsistent with accepting responsibility. Thus, by way of example only, should the Defendant falsely deny or falsely attempt to minimize the Defendant’s involvement in relevant offense conduct, give conflicting statements about the Defendant’s involvement, fail to pay the special assessment, fail to meet any of the obligations set forth in the Financial Cooperation Provisions set forth below, or participate in additional

criminal conduct, including unlawful personal use of a controlled substance, the Government will not be required to recommend acceptance of responsibility.

**Right to Answer Questions, Correct Misstatements,
and Make Recommendations**

18. The parties reserve the right to inform the Court and the Probation Office of all facts and circumstances regarding the Defendant and this case, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Except as expressly stated elsewhere in this Plea Agreement, the parties also reserve the right to make recommendations regarding application of the Sentencing Guidelines. The parties understand, acknowledge, and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed.

Right to Modify Recommendations

19. With regard to the Government's recommendation as to any specific application of the Sentencing Guidelines as set forth elsewhere in this Plea Agreement, the Defendant understands and agrees that, should the Government obtain or receive additional evidence concerning the facts underlying any such recommendation, the Government will bring that evidence to the attention of the Court and the Probation Office. In addition, if the additional evidence is sufficient to support a finding of a different application of the Guidelines, the Government will not be bound to make the recommendation set forth elsewhere in this Plea Agreement, and the failure to do so will not constitute a violation of this Plea Agreement.

Sentencing Recommendations

Specific Sentence Recommendation

20. The Government and the Defendant agree to jointly recommend that the Court impose a sentence of no less than 288 months (24 years) of imprisonment and no greater than 348 months (29 years) of imprisonment. **Specifically, the Defendant understands and agrees that the Defendant may request a sentence of not less than 288 months of imprisonment, and the Government may request a sentence of not more than 348 months of imprisonment.** However, if the Defendant engages in conduct inconsistent with accepting responsibility, as described more fully in paragraph 17, the Government will not be bound by this agreement with respect to a recommended sentence.

Fine--No Recommendation as to Amount

21. The Government agrees to make no specific recommendation as to the amount of the fine to be imposed on the Defendant within the applicable guideline range.

Restitution

22. The Defendant agrees to pay full restitution to the Clerk of Court for distribution to all victims of the offenses to which he is pleading guilty and all relevant conduct, including, but not limited to, any counts dismissed as a result of this Plea Agreement. The Defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing. The Defendant also agrees to cooperate fully in the investigation of the amount of

restitution, the identification of victims, and the recovery of restitution for victims.

Forfeiture

23. The Defendant acknowledges that each asset listed below is subject to forfeiture pursuant to 18 U.S.C. § 2253 and agrees that he shall immediately forfeit to the United States any property used or intended to be used to facilitate and property involved in the commission of the offenses in Counts 1 through 11, including, but not limited to, the following:

- a. Apple Mac Book Pro S/N C02N6DB2G3QH;
- b. Dell Desktop Studio XPD Computer S/N 32X8KN1;
- c. iPhone A1532 IMEI 358820053890264
- d. iPhone XR S/N F2LXV2ZAKXKN;
- e. iPhone 7 S/N F4GSKX1VHG6Y; and
- f. one spiral-bound notebook seized on or about August 14, 2019.

24. The Defendant waives and abandons all right, title, and interest in all of the property listed above (referred to hereafter, collectively, as the Subject Property) and agrees to the administrative or judicial forfeiture of the Subject Property. In addition, the Defendant waives and abandons his interest in any other property that may have been seized in connection with this case. The Defendant agrees to the administrative or judicial forfeiture or the abandonment of any seized property.

25. The Defendant states that he is the sole and rightful owner of the Subject Property, that to the best of his knowledge no other person or entity has any

interest in the Subject Property, and that he has not transferred, conveyed, or encumbered his interest in the Subject Property. The Defendant agrees to take all steps requested by the United States to facilitate transfer of title of the Subject Property, including providing and endorsing title certificates, or causing others to do the same where third parties hold nominal title on the Defendant's behalf, to a person designated by the United States. The Defendant agrees to take all steps necessary to ensure that the Subject Property is not hidden, sold, wasted, destroyed, or otherwise made unavailable for forfeiture. The Defendant agrees not to file any claim, answer, or petition for remission or restitution in any administrative or judicial proceeding pertaining to the Subject Property, and if such a document has already been filed, the Defendant hereby withdraws that filing.

26. The Defendant agrees to hold the United States and its agents and employees harmless from any claims made in connection with the seizure, forfeiture, or disposal of property connected to this case. The Defendant acknowledges that the United States will dispose of any seized property, and that such disposal may include, but is not limited to, the sale, release, or destruction of any seized property, including the Subject Property. The Defendant agrees to waive any and all constitutional, statutory, and equitable challenges in any manner (including direct appeal, a Section 2255 petition, habeas corpus, or any other means) to the seizure, forfeiture, and disposal of any property seized in this case, including the Subject Property, on any grounds.

27. The Defendant acknowledges that he is not entitled to use forfeited assets, including the Subject Property, to satisfy any fine, restitution, cost of imprisonment, tax obligations, or any other penalty the Court may impose upon the Defendant in addition to forfeiture. However, the United States Attorney's Office for the Northern District of Georgia will recommend to the Chief of the Asset Forfeiture and Money Laundering Section (AFMLS) of the United States Department of Justice that property forfeited in this case, or the related civil forfeiture case, be used to compensate the victims specified in the restitution order, provided that the Government determines that the requirements for restoration as set forth in AFMLS Forfeiture Policy Directive 02-1, Paragraph III.A., are met. The Defendant understands that the decision on any petition for remission or restoration is not within the ultimate control of the United States Attorney's Office.

28. The Defendant consents to the Court's entry of a preliminary order of forfeiture against the Subject Property, which will be final as to him, a part of his sentence, and incorporated into the judgment against him.

Financial Cooperation Provisions

Special Assessment

29. The Defendant agrees that he will pay a special assessment in the amount of \$1,100 by money order or certified check made payable to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Ted Turner Drive SW, Atlanta, Georgia 30303, by the day of sentencing. If the Court orders the additional special assessment of \$5,000 as to each count, pursuant to 18 U.S.C. § 3014, the

Defendant agrees that he will pay that amount, for a total of \$56,100, to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Ted Turner Drive SW, Atlanta, Georgia 30303, within the timeframe set forth in the Court's Judgment of Conviction. The Defendant agrees to provide proof of such payment to the undersigned Assistant United States Attorney upon payment thereof.

Fine/Restitution - Terms of Payment

30. The Defendant agrees to pay any fine and/or restitution imposed by the Court to the Clerk of Court for eventual disbursement to the appropriate account and/or victim(s). The Defendant also agrees that the full fine and/or restitution amount shall be considered due and payable immediately. If the Defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, he agrees that the custodial agency and the Probation Office will have the authority to establish payment schedules to ensure payment of the fine and/or restitution. The Defendant understands that this payment schedule represents a minimum obligation and that, should the Defendant's financial situation establish that he is able to pay more toward the fine and/or restitution, the Government is entitled to pursue other sources of recovery of the fine and/or restitution. The Defendant further agrees to cooperate fully in efforts to collect the fine and/or restitution obligation by any legal means the Government deems appropriate. Finally, the Defendant and his counsel agree that the Government may contact the Defendant regarding the collection of any fine and/or restitution without notifying and outside the presence of his counsel.

Financial Disclosure

31. The Defendant agrees that the Defendant will not sell, hide, waste, encumber, destroy, or otherwise devalue any such asset worth more than \$5,000 before sentencing, without the prior approval of the Government. The Defendant understands and agrees that the Defendant's failure to comply with this provision of the Plea Agreement should result in the Defendant receiving no credit for acceptance of responsibility.

32. The Defendant agrees to cooperate fully in the investigation of the amount of forfeiture, restitution, and fine; the identification of funds and assets in which he has any legal or equitable interest to be applied toward forfeiture, restitution, and/or fine; and the prompt payment of restitution or a fine.

33. The Defendant's cooperation obligations include: (A) fully and truthfully completing the Department of Justice's Financial Statement of Debtor form, and any addenda to said form deemed necessary by the Government, within ten days of the change of plea hearing; (B) submitting to a financial deposition or interview (should the Government deem it necessary) prior to sentencing regarding the subject matter of said form; (C) providing any documentation within his possession or control requested by the Government regarding his financial condition and that of his household; (D) fully and truthfully answering all questions regarding his past and present financial condition and that of his household in such interview(s); and (E) providing a waiver of his privacy protections to permit the Government to access his credit report and tax information held by the Internal Revenue Service.

34. So long as the Defendant is completely truthful, the Government agrees that anything related by the Defendant during his financial interview or deposition or in the financial forms described above cannot and will not be used against him in the Government's criminal prosecution. However, the Government may use the Defendant's statements to identify and to execute upon assets to be applied to the fine and/or restitution in this case. Further, the Government is completely free to pursue any and all investigative leads derived in any way from the interview(s)/ deposition(s)/ financial forms, which could result in the acquisition of evidence admissible against the Defendant in subsequent proceedings. If the Defendant subsequently takes a position in any legal proceeding that is inconsistent with the interview(s)/ deposition(s)/ financial forms—whether in pleadings, oral argument, witness testimony, documentary evidence, questioning of witnesses, or any other manner—the Government may use the Defendant's interview(s)/ deposition(s)/ financial forms, and all evidence obtained directly or indirectly therefrom, in any responsive pleading and argument and for cross-examination, impeachment, or rebuttal evidence. Further, the Government may also use the Defendant's interview(s)/ deposition(s)/ financial forms to respond to arguments made or issues raised *sua sponte* by the Magistrate or District Court.

Recommendations/Stipulations Non-binding

35. The Defendant understands and agrees that the recommendations of the Government incorporated within this Plea Agreement, as well as any stipulations of fact or guideline computations incorporated within this Plea

Agreement or otherwise discussed between the parties, are not binding on the Court and that the Court's failure to accept one or more of the recommendations, stipulations, and/or guideline computations will not constitute grounds to withdraw his guilty plea or to claim a breach of this Plea Agreement.

Limited Waiver of Appeal

36. LIMITED WAIVER OF APPEAL: To the maximum extent permitted by federal law, the Defendant voluntarily and expressly waives the right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding (including, but not limited to, motions filed pursuant to 28 U.S.C. § 2255) on any ground, except that the Defendant may file a direct appeal of an upward departure or upward variance above the sentencing guideline range as calculated by the District Court. Claims that the Defendant's counsel rendered constitutionally ineffective assistance are excepted from this waiver. The Defendant understands that this Plea Agreement does not limit the Government's right to appeal, but if the Government initiates a direct appeal of the sentence imposed, the Defendant may file a cross-appeal of that same sentence.

Miscellaneous Waivers

FOIA/Privacy Act Waiver

37. The Defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including, without limitation, any records that may be sought under the

Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act of 1974, Title 5, United States Code, Section 552a.

No Other Agreements

38. There are no other agreements, promises, representations, or understandings between the Defendant and the Government.

In Open Court this 5 day of March, 2020.



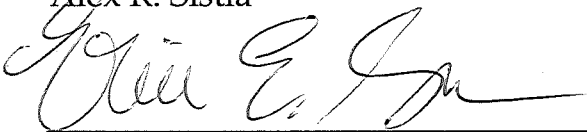
SIGNATURE (Defendant's Attorney)
Douglas N. Fox



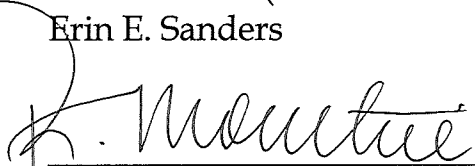
SIGNATURE (Defendant)
Edward "Eddie" Okenica



SIGNATURE (Assistant U.S. Attorney)
Alex R. Sistla



SIGNATURE (Assistant U.S. Attorney)
Erin E. Sanders



SIGNATURE (Approving Official)
Richard S. Moultrie, Jr.

CERTIFICATION OF DEFENDANT AND ATTORNEY

I have read the Information against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at a trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained in the Plea Agreement, and I voluntarily agree to them. I also have discussed with my attorney the rights I may have to appeal or challenge my conviction and sentence, and I understand that the appeal waiver contained in the Plea Agreement will prevent me, with the narrow exceptions stated, from appealing my conviction and sentence or challenging my conviction and sentence in any post-conviction proceeding. No one has threatened or forced me to plead guilty, and no promises or inducements have been made to me other than those discussed in the Plea Agreement. The discussions between my attorney and the Government toward reaching a negotiated plea in this case took place with my permission. I am fully satisfied with the representation provided to me by my attorney in this case.

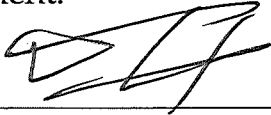


SIGNATURE (Defendant)
Edward "Eddie" Okenica



DATE

I am Edward "Eddie" Okenica's lawyer. I have carefully reviewed the charges and the Plea Agreement with my client. To my knowledge, my client is making an informed and voluntary decision to plead guilty and to enter into the Plea Agreement.



SIGNATURE (Defendant's Attorney)
Douglas N. Fox

3/5/20

DATE

Douglas N. Fox
Fox Firm P.C.
268 W. Pike St, Suite A
Lawrenceville, GA 30046
(770) 277-4883

272475 State Bar of Georgia Number

Filed in Open Court

This ____ day of _____, 2020

By _____

U. S. DEPARTMENT OF JUSTICE

Statement of Special Assessment Account

This statement reflects your special assessment only. There may be other penalties imposed at sentencing.

ACCOUNT INFORMATION	
CRIMINAL ACTION NO.:	2:20-CR-007-SCJ
DEFENDANT'S NAME:	EDWARD "EDDIE" OKENICA
PAY THIS AMOUNT:	\$56,100 (or \$1,100 if the Defendant is found indigent at sentencing)

Instructions:

1. Payment must be made by **certified check** or **money order** payable to:
Clerk of Court, U.S. District Court
personal checks will not be accepted
2. Payment must be made to the clerk's office by the day of sentencing.
3. Payment should be sent or hand delivered to:
Clerk, U.S. District Court
2211 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, Georgia 30303
(Do Not Send Cash)
4. Include the defendant's name on **certified check** or **money order**.
5. Enclose this coupon to insure proper and prompt application of payment.
6. Provide proof of payment to the above-signed AUSA within 30 days of the guilty plea.